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MATERIALS FOR ADVANCED PUBLIC INTERNATIONAL LAW: THE GLOBAL ENVIRONMENT

Volume 1

Professor Craig Scott

Winter/Spring 1990

Faculty of Law
University of Toronto

This volume is not to be considered as published. It is solely for the educational use of the students at the Faculty of Law, University of Toronto, and of students in other universities to whom these materials may be distributed.

PREPARED BY
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Volume 1: Classes 1-6

Note 1: Students are not expected to have read all of the readings that appear in this volume for each week of the seminar. Certain 'mandatory' readings will be assigned for each week and students asked to choose additional readings on aspects of that week's topic which interest them most (see the reading list for the reading assignments). This volume is in part a resource collection which will help students achieve an overview of the areas in which they wish to do their research paper(s).

Note 2: The topics for classes 7-13 appear at the end of this Table of Contents.

1. January 10: **PERSPECTIVES ON THE ENVIRONMENT I:** Ecological Philosophies; Sustainable Development

Ecological Philosophies

Feminism

Pearce, "Approaches in Environmentalism and Feminism" (1989) 1(1) Undercurrents 3 1

Shiva, Staying Alive: Women, Ecology and Development, (London: Zed, 1988) Ch.1-3 7

Merchant, excerpt from (May 1987) New Internationalist, reproduced as "Ecofeminists draw connections between sexism and environmental degradation" (Nov./Dec. 1989) Utne Reader 76 30

Deep Ecology

Devall and Sessions, Deep Ecology (Layton, Utah: Gibbs Smith, 1985) 16

Porritt, "One Earth" (Nov/Dec. 1989) Utne Reader 70 24

Aboriginal Perspectives

J.W. Ragsdale, Jr., "Law and Environment in Modern America and Among the Hopi Indians: A Comparison of Values", (1986?) 10 Harv

Env Law Rev 417 32

Redclift, "Defining an alternative: indigenous environmental management" in Sustainable Development: Exploring the Contradictions (London: Methuen, 1987) 150-159 41

Sustainable Development

Monte, "A Critique of the WCED: Misplaced Priority for Preventing Environmental Degradation or Poverty?" in Schneider, ed., Deforestation and Development in Canada and the Tropics: The Impact on People and the Environment (Sydney, N.S.: Centre for International Studies, 1989) 228 46

M. Redclift, Development and the Environmental Crisis: Red or Green Alternatives? (New York: Methuen, 1984) Ch. 7, "Development and the Environment: A Converging Discourse" 47

R.B. Norgaard, "Sustainable Development: A Co-evolutionary view" (Dec. 1988) Futures 52

J.Gardner and M.Roseland, "Thinking Globally: The Role of Social Equity in Sustainable Development" (1989) 16(3) Alternatives 26-34 60

Perceptual Poverty

Brown et al., "Crossing Perceptual Thresholds" in ch. 1, "A World at Risk" in Lester Brown et al., State of the World 1989: A Worldwatch Institute Report on Progress Towards a Sustainable Society New York: W.W. Norton, 1989) 64

Ehrlich and Ornstein, New World, New Mind (Doubleday, 1989) [selected extracts] 66

2. January 17: **PERSPECTIVES ON THE ENVIRONMENT II:** the Structure of International Environmental Law; challenges to statist thinking

Overview of International Environmental Law

D. Johnston, "Systemic Environmental Damage: The Challenge to Inter-national Law and Oragnization" (1985) 12 Syr J of Int'l Law and Comm 255 93

Williams, "Public International Law Governing Transboundary Pollution" (1984) 13 U of Queensland L J 112 101

Springer, "United States environmental policy and international law: Stockholm Principle 21 revisited" in Carroll, International Environmental Diplomacy (Cambridge, UK: Cambridge Univ Press, 1988) 110

A. Kiss, "The International Protection of the Environment" in R. St. John Macdonald and D. Johnston, The Structure and Process of International Law (Dordrecht: Martinus Nijhoff, 1983) 116

Richard Falk, "Foreword" in Orr and Soroos, The Global Predicament 120

A.L. Springer, The International Law of Pollution: Protecting the Global Environment in a World of Sovereign States, (Westport, Conn: Quorum Books, 1983), Ch. 2, "International Environmental Law" 124

Planetary or Global Thinking

D.J. McLaren, "The Health of the Planet" (1988) 9/10 Policy Options 3 140

W. Berry, "The Futility of Global Thinking", (Sept. 1989) Harper's 143

The Planetary Trust and Future Generations

E. Brown-Weiss, "The Planetary Trust: Conservation and Intergenerational Equity" (1984) 11 ELQ 495 145

Experts Group on Environmental Law of the World Commission on Environment and Development (WCED), Environmental Protection and Sustainable Development: Legal Principles and Recommendations (Norwell, MA: Graham and Trotman, 1987), Commentary on Article 2 157

Relationship to International Peace and Security

Renner, "Enhancing Global Security" in Brown et al., State of the World 1989 159

3. January 24: **STATE RESPONSIBILITY AND INTERNATIONAL LIABILITY FOR INJURIOUS CONSEQUENCES OF UNLAWFUL ACTS: AN INTRODUCTION AND OVERVIEW**

Barboza, "Second report on international liability for injurious consequences arising out of acts not prohibited by international

law" [1986] YrBk. ILC, II, Part 1, pp.148-161, paras. 12-69 164

Proposed Artciles 1-6 from Barboza, "Third report on international liability..." [1987] YrBk. ILC, II, Part 1, pp.48-49178

Experts Group of the WCED, Commentary on Articles 11 and 12 180

Smith, State Resonsibility and the Marine Environment (Oxford: Oxford Univ. Press, 1988), ch. 5-8 185

Zemanek, "Causes and Forms of International Liability" in Brown and Cheng, eds., Contemporary Problems of International Law: Essays in Honour of Georg Schwarzenberger (London: Stevens and Sons, 1988) 208

Handl, "Liability as an Obligation Established by a Primary Rule of International Law" (1986) 26 Neth YB of Int'l Law 49 214

McGraw, "Transboundary Harm: The ILC's Study of International Liability" (1986) 80 AJIL 305 230

Goldie, "Transfrontier Pollution-From Concepts of Liability to Administrative Concilitaion" (1985-86) 12 Syracuse Journal of International Law 185 235

Allott, "State Responsibility and the Unmaking of International Law" (1988) 29 HILJ 238

4. January 31: **STATE RESPONSIBILITY - MARINE POLLUTION, NUCLEAR RADIATION FALL-OUT, ACID PRECIPITATION**

Boyle, "Marine Pollution under the Law of the Sea Convention" (1985) 79 AJIL 347 244

Smith, State Responsibility and the Marine Environment, ch. 12 and 13 257

Johnston, "Marine pollution agreements: successes and problems" in Carroll 268

Handl, "Transboundary Nuclear Accidents: The Post-Chernobyl Multilateral Legislative Agenda" (1988) 15 Ecol Law Qu. 203 272

Wetstone and Rosencranz, Acid Rain in Europe and North America (Environmental Law Institute, 1985) 290

Carroll, "The acid rain issue in Canadian-American relations: a commentary" in Carroll 294

Fraenkel, "The Convention on Longrange Transboundary Air Pollution: Meeting the Challenge of International Cooperation" (1989) 30 HILJ 447 297

OECD Secretariat, "The Application of PPP to Accidental Pollution" (1989) 19/5 EPL 162 305

5. <u>February 7</u>: **STATE RESPONSIBILITY - HAZARDOUS WASTE TRADE AND TRANSFER OF HAZARDOUS TECHNOLOGY**

Handl, "Environmental Protection and Development in Third World Countries: Common Destiny - Common Responsibility" (1988) 20 NYUJILP 603 309

Handl and Lutz, "An International Policy Perspective on the Trade of Hazardous Materials and Technologies" (1989) 30 HILJ 351 317

Kohl and Sud, "Fighting Toxic Terrorism" (1989) 16(3) Alternatives 12-14 329

Comment on Basel Convention, (1989) 19/2 EPL 38 331

Pallemaerts, "Developments in International Pesticide Regulation" (1988) 18/3 EPL 62 333

McCaffrey, "The Work of the International Law Commission Relating to Transnational Environmental Harm" (1989) 20 NYUJILP 715 340

Handl, Comment, Panel on "International Transfer of Hazardous Technology and Substances: Caveat Emptor or State Responsibility?

The Case of Bhopal, India", (1985) Proc. ASIL 303 347

Divan and Rosencranz, "The Bhopal Settlement" (1989) 19/5 EPL 167351

6. <u>February 14</u>: **ROLE OF NON-STATE ACTORS AND TRANSNATIONAL ACTIVITIES**: Aboriginal peoples; individuals; NGO's; TNE's; multilateral finanacial institutions

<u>NGO's, Individuals, Aboriginal Peoples</u>

Sands, "Environment, Community and International Law" (1989) 30 HILJ 393 393 355

L.K. Caldwell, "Beyond Environmental Diplomacy: the Changing Institutional Structure of International Cooperation" in Carroll368

Durning, "Mobilizing at the Grassroots" in Brown et al., State of the World 1989 372

Agarwal, "The Importance of Women in Forestry: The Chipko Movement" in Schneider, ed, Deforestaion and Development 220 382

Shiva, "The women of Chipko" in Shiva, Staying Alive: Women, Ecology and Development 383

Legal experts of WCED, Commentary on Article 1, "Fundamental human right" 387

Hansen, "Amazon Revival" (Nov. 9-15, 1989) NOW 8 390

Probe International, Letter of November 1989 392

Caufield, "The Cultural Annihilation of Forest Peoples" in Schneider, 55 394

Lutzenberger, "Brazil's Amazonian Alliance" in Schneider, 216 396

Resolution of the Amazonian Alliance of the Forest to the World Bank and the Inter-American Development Bank in Schneider, 217 397

Dwyer, "Rubber Tappers Fight for Tropical Forest" in Schneider, 218398

McNamee, "National Wilderness Battle Ends: South Moresby Protected, But..." in Schneider, 138 399

Survival International, Brazil Ticuna Massacre in Schneider, 49403

Treece, "Brazil's Greater Carajas Programme" in Schneider, 28 404

Multinational Corporations and Multilateral Lending Agencies

Martens, "Ending Tropical Deforestation: What is the Proper Role for the World Bank?" (1989) 13 Harv Env Law Rev. 485 405

Plater, "Damming the Third World: Multilateral Development Banks, Environmental Diseconomies, and International Reform Pressures on the Lending Process" (1988) 17 Denver Jl of Int'l Law and Pol 121409

Probe International, Probe Alert (November 1989) 420

The Sierra Club, "The Multilateral Development Banks" in Schneider, 97 422

Lutzenberger, "The World Bank's Polonoreste Project" in Schneider, 29 424

Guppy, "The Development Sequence Trap: Funding Corruption and Deforestation" in Schneider, 100 427

Redclift, Sustainable Development: Exploring the contradictions, "Sovereignty and the multinationals", 73-78 428

Gilpin, The Political Economy of International Relations, "Multinational Corporations and International Production" (Princeton: Princeton University Press, 1987) 231-263 431

Centre for Transnational Corporations, Transnational Corporations in World Development: 1988 (New York: UN, 1988), "Transnational corporations and the environment" 448

Centre for Transnational Corporations, Transnational Corporations in World Development: 1988 (New York: UN, 1988), "United Nations Code of Conduct on Transnational Corporations" 458

"The Seveso Incident" in Centre for Transnational Corporations, Environmental Aspects of Transnational Corporations: A Survey (New York: UN, 1985) 464

Scobie and Scobie, "A Multinational Corporation Logs the Solomons" in Schneider, 77 466

Schneider, "Underdeveloping Nova Scotia's Forests and the Role of

Corporate Intelligence" in Schneider, 181 467

Kelly, "The biggest give-away" in Schneider, 113 470

"Natives take violation case to the UN" in Schneider, 114 471

THE TOPICS FOR CLASSES 7-13 WILL BE AS FOLLOWS:

7. **February 21:** **LINKAGES WITH INTERNATIONAL RELATIONS AND STRUCTURES**

READING WEEK: February 26 - March 2

8. **March 7:** **GLOBAL WARMING I:** Energy Use v. Deforestation

9. March 14: **GLOBAL WARMING II:** Energy Use v. Deforestation

10. March 21: **ECOSYSTEM CRISIS:** Species Loss and Human Population Growth

11. March 28: **FOOD SYSTEMS COLLAPSE:** Food Security; Desertification; Land Degradation

12. April 4: **OZONE LAYER DEPLETION**

13. April 11: **INTERNATIONAL COOPERATION AND GLOBAL CONVENTIONS**

The readings for these weeks will appear in Volume 2.